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Regulatory
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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Board of Social Work, Department of Health Professions
Virginia Administrative Code (VAC) citation	<u>18</u> VAC <u>140</u> - <u>20</u>
Regulation title	Regulations Governing the Practice of Social Work
Action title	Amendments to Standards of Practice
Document preparation date	June 17, 2005

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The Board intends to amend existing regulations relating to "Standards of Practice" (i.e. professional conduct, grounds for disciplinary action, and reinstatement following disciplinary action) governing the two professions of social work licensed by this Board.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Section 54.1-2400 establishes the authority of the Board of Social Work to establish necessary qualifications for registration, certification or licensure, to ensure the competence and integrity of regulated practitioners, to examine applicants, to establish renewal schedules, to administer fees to cover the administrative expenses of the regulatory program, to take disciplinary action for violations of law and regulations and to establish requirements for an inactive licensure status.

§ 54.1-2400. *General powers and duties of health regulatory boards.*

The general powers and duties of health regulatory boards shall be:

- 1. To establish the qualifications for registration, certification or licensure in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions.*
- 2. To examine or cause to be examined applicants for certification or licensure. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.*
- 3. To register, certify or license qualified applicants as practitioners of the particular profession or professions regulated by such board.*
- 4. To establish schedules for renewals of registration, certification and licensure.*
- 5. To levy and collect fees for application processing, examination, registration, certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions and the health regulatory boards.*
- 6. To promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ [54.1-100](#) et seq.) and Chapter 25 (§ [54.1-2500](#) et seq.) of this title.*
- 7. To revoke, suspend, restrict, or refuse to issue or renew a registration, certificate or license which such board has authority to issue for causes enumerated in applicable law and regulations.*
- 8. To appoint designees from their membership or immediate staff to coordinate with the Intervention Program Committee and to implement, as is necessary, the provisions of Chapter 25.1 (§ [54.1-2515](#) et seq.) of this title. Each health regulatory board shall appoint one such designee.*
- 9. To take appropriate disciplinary action for violations of applicable law and regulations....*

The statutory authority for licensure and regulation of social workers is found in Chapter 37 of Title 54.1 of the Code of Virginia.

§ 54.1-3705. *Specific powers and duties of the Board.*

In addition to the powers granted in § [54.1-2400](#), the Board shall have the following specific powers and duties:

- 1. To cooperate with and maintain a close liaison with other professional boards and the community to ensure that regulatory systems stay abreast of community and professional needs.*
- 2. To conduct inspections to ensure that licensees conduct their practices in a competent manner and in conformance with the relevant regulations.*
- 3. To designate specialties within the profession.*
- 4. [Expired.]*

§ 54.1-3706. *License required.*

In order to engage in the practice of social work, it shall be necessary to hold a license.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed. Include the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. Delineate any potential issues that may need to be addressed as the regulation is developed.

In January 2005 the Board of Social Work created an Ad Hoc Committee to conduct an in-depth review of the Board's Standards of Practice. This Committee was convened as a result of the Board Chair's seven year history of conducting disciplinary hearings during which she and other members came to believe that the Standards did not adequately address many of the inappropriate practice situations or failed to adequately provide ethical guidance in certain situations. As a result of the perceived deficiencies the Ad Hoc Committee, consisting of the Chair, another board member, the Executive Director of the Virginia Chapter of the National Association of Social Work, and two members of the Clinical Society of Social Work met to review pertinent professional literature, standards for Counseling and Psychology Boards, standards of other state social work boards, as well as, discipline orders from the Board of Social Work over the past three years.

A matter of great help in the initial phase of considering needed changes to the Standards was the consensus of the three behavioral science board (Counseling, Psychology and Social Work) that the regulations for all licensed therapists should be very similar among the helping professions. Consequently the three boards agreed to review the Standards being mindful of the need to have like requirements among the Behavioral Science Boards.

The Ad Hoc Committee has recommended that the Board consider amendments that would eliminate inconsistencies in ethical standards among mental health professions, modify outdated standards that are unresponsive to current practices, and clarify standards that have been somewhat confusing to licensees.

For example, amendments would address issues such as: standards for therapy not rendered in face-to-face settings, information which should be provided to clients at the initial sessions, informed consent, appropriate collaboration with other treating professionals, the requirement to maintain adequate information in client records, and the prohibition of engaging in relationships with clients, supervisees, students and those in collateral relationships with clients (such as spouses or other relatives).

The proposed regulations will provide a more consistent and up-to-date basis for disciplinary action which will better serve to protect the client, and provide clear guidelines to the Social Worker.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action.

As an alternative, the Board considered retaining existing language. This alternative was not accepted because inconsistencies in the standards of practice may not adequately protect the today's consumer against unprofessional practices of the professionals regulated by this Board. For the most part the standards of practice relate to business related aspects of the practice, not the clinical treatment aspect of the practice.

Once approval to publish the Notice of Intended Regulatory Action is granted, the Board will consider any comment received during its meetings and public comment periods on any proposed regulations.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability.

There is no impact on the institution of the family and family stability.